CRP 345/2007
BEFORE
THE HON'BLE MR. JUSTICE B.P. KATAKEY

The grievance of the petitioners in the present petition is non-disposal of the execution proceeding being Title Execution Case No.23/06 filed by the present petitioners for execution of the decree passed in Title Suit No.183/1986. It is the case of the petitioners that though the judgment debtors against the decree passed in the said suit preferred title appeal, than revision petition before this Court and also approach the Apex Court challenging such decree, the same have been dismissed and, thereafter, being not successful in getting such decree set aside, filed several applications on flimsy ground so as to prevent execution of the decree passed in Title Suit No.183/1986. The petitioners, therefore, prays for a direction from this Court to get the decree executed as expeditiously as possible.

It appears from the order dated 05.09.2007, which has been quoted at page 14 of the petition that the learned Executing Court has issue the writ for delivery of possession fixing on 28.09.2007 for report. The learned Executing Court, however, vide order dated 15.09.2007 in view of the application filed by the judgment debtors to stay the execution of the decree on the ground that they will approach this Court against the order dated 31.08.2007 passed in Misc. Case No.8/2007 rejecting the application filed under Section 47 CPC, recalled the writ for delivery of possession issued for ends of justice allowing the judgment debtors time till 17.10.2007 for production of the order from this Court that may be passed in the petition challenging the order dated 31.08.2007 passed in Misc. Case No.8/2007. It also appears from the said order dated 15.09.2007, which has been annexed as Annexure-VI to the petition that on the date fixed for delivery of possession, the Nazir went on casual leave for which the possession of the property could not be handed over to the decree holder.

Whenever a decree is passed by a Court of competent jurisdiction and which was not set aside though attempts were made by the judgment debtors by approaching the various Court including the Apex Court, the duty of the Executing Court is to execute the decree, unless of course there is an order passed by any Court staying such execution, so that the fruit of the decree can enjoyed by the decree holder. In the instant case, the suit for ejectment was filed by the plaintiff in the year 1986 and decree was passed by the learned Trial Court on 10.08.2004 and though the same was challenged by the judgment debtors by filing title appeal and than revision petition and also in the Apex Court the decree passed by the learned Court has not been interfered with by any of the Court.

In view of the aforesaid position, I dispose of the present petition with the direction to the learned Executing Court to execute the decree as expeditiously as possible, unless of course any order staying such execution is passed by any Court.

The petition is accordingly disposed of.